

1.01: USE OF FORCE**In Effect: 10/06/2010****Review Date: 10/06/2011 @ 0800****USE OF FORCE**

POLICY & PROCEDURE NO. 1.01	ISSUE DATE: <u>11 March 2003</u>
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 1.3.1; 1.3.2; 1.3.3; 1.3.4; 1.3.5	EFFECTIVE DATE: <u>11 March 2003</u>
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This Policy and Procedure is based on the Municipal Police Institute's Policy and Procedure Manual, the Municipal Police Training Committee's Use of Force curriculum and the input of Pittsfield Police Department personnel.

Revisions and Corrections:

This policy as written and accepted shall be held to supercede Use of Force Policy number 400 (currently in effect), Oleoresin Capsicum Chief's Order 11/9/92 (currently in effect) and Use of Force Addendum 400-3 (currently in effect).

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I. GENERAL CONSIDERATIONS AND GUIDELINES

Because of their law enforcement and peacekeeping role, police officers will be required at times to resort to the use of physical force to enable them to fully carry out their responsibilities. Police officers are confronted continually with situations requiring or resulting in the use of various degrees of force to affect a lawful arrest, to ensure public safety, or to protect themselves or others from harm. The degree of force used is dependent upon the reasonable officers' perception of the situation the officers face. Only a reasonable and necessary amount of force may be used. The degree of force the officer may use often depends upon the amount of resistance or threat to safety the situation produces.

The objective of the use of force is to gain and maintain control over a situation. Control is reached when a person complies with an officer's directions and/or the suspect is restrained or apprehended and no longer presents a threat to the officer or others. Since officers will encounter a wide range of behaviors, they must be prepared to utilize a range of force options that are reasonable and necessary to gain and maintain control by overcoming resistance to the officers' lawful authority while minimizing injuries.

Because there are an unlimited number of possibilities, allowing for a wide variety of circumstances, no written policy can offer definitive answers to every situation in which the use of force might be appropriate. Rather, this policy will set certain guidelines and provide officers with a basis on which to utilize sound judgment in making reasonable and prudent decisions.

II. POLICY

It is the policy of the department that: *[1.3.1]*

- A. Officers use only the force that is reasonably necessary to make a lawful arrest, to place a person into protective custody, to effectively bring an incident under control, or to protect the lives or safety of the officer and others.

- B. In each individual instance, lawful and proper force is restricted to only that force necessary to control and terminate unlawful resistance and to prevent any further attack against the police officers and/or any other person. This would include deadly and/or non-deadly force, with lethal and non-lethal weapons.

III. DEFINITIONS

- A. *Deadly Force:* Any use of force that is reasonably intended or likely to cause death or great bodily harm.
- B. *Non-Deadly Force:* Any use of force other than that which is considered deadly force. This includes any physical effort used to control or restrain another, or to overcome the resistance of another.
- C. *Great Bodily Harm:* Great bodily harm is defined as any bodily injury which creates as substantial risk of death; causes serious, permanent disfigurement; or results in extended loss or impairment of the function of any bodily member or organ.

IV. USE OF FORCE MODEL

- A. The amount and degree of force which may be employed will be determined by the reasonable officers' perceptions of the surrounding circumstances including, but not limited to:
 - 1. The nature of the offense;
 - 2. The behavior of the subject against whom the force is to be used;
 - 3. Actions by third parties who may be present;
 - 4. Physical odds against the officer;
 - 5. Physical limitations placed on the officer; and
 - 6. The feasibility or availability of alternative actions.
- B. When an officer determines that the use of force is necessary, the officer shall, to the extent possible, utilize an appropriate level of force as determined by the reasonable officer's perceptions of the particular needs of the situation.
- C. The preferred means of using force shall adhere to the current Use of Force Model, as provided by the Municipal Police Training Committee. The Use of Force Model is as follows:

USE OF FORCE MODEL

Level 1: Compliant Subject—Cooperative Controls

Within the normal realm of control, the vast majority of officer/subject encounters are positive and cooperative. The officer can maintain or gain compliance to commands via respect, acceptance, verbalization skills, etc.

Acceptable control techniques include the fundamentals of professional, contemporary training, capitalization upon the acceptance of authority by the general population through the use of a variety of controls, including: communication skills, proper restraint applications, etc.

Level 2: Resistant (Passive) Subject—Contact Controls

In some confrontational contacts, the subject may offer a preliminary level of non-compliance. The subject's resistance is passive, with the subject offering no physical or mechanical energy enhancement toward the resistance effort.

The officer must deploy tactical strategies to proportionately gain control through "hands on" techniques designed primarily to guide or direct the subject. The primary force components include leverage, strategic stabilization & direction, etc.

Level 3: Resistant (Active) Subject—Compliance Techniques

The subject's resistance has become more active in scope and intensity. The indifference to direction and/or control has increased to a level of an energy enhanced physical or mechanical defiance. The individual has directed his/her physical strength and energy in achieving and/or maintaining a posture of resistance.

The officer must deploy sufficient counter force to overcome this resistance and remain increasingly vigilant for more aggressive behavior from the subject. The force forms could include techniques of pain compliance, OC Spray, temporary distraction, joint manipulations, control holds, controlled takedowns (i.e., arm bar takedown), PepperBall area saturation, Taser drive stuns, etc.

Level 4: Assaultive (Bodily Harm) Subject—Defensive Tactics

The officer's attempt to gain lawful compliance has met with active, hostile, non-compliance, culminating in a perceived attack upon the officer or others. The scope and severity of the attack would support the reasonable assumption that the actions of the attacker **would not** result in anyone's death or serious bodily harm.

The officer is now justified in taking appropriate steps to immediately stop the assaultive

action and gain and maintain control of the subject. Force alternates could include weapon/weaponless strikes, uncontrolled takedowns (i.e., throws or lifts), PepperBall or other kinetic impact device strikes, Taser strikes, etc.

Level 5: Assaultive (**Great Bodily Harm**) Subject—**Deadly Force**

This is the least encountered but most serious threat to officer safety. Here, the officer can draw a reasonable conclusion that he/she or another **would be** subject to death or great bodily harm as a result of the subject's attack.

- V. The officer is now confronted with an assaultive act by the subject that reaches the ultimate degree of danger. Absolute and immediate tactics must be deployed to stop the lethal threat and secure conclusive control. Force options could include those leading to permanent debilitation or even death.

VI. PROCEDURES

A. Use of Deadly Force

1. Officers are authorized to use deadly force to: *[1.3.2]*
 - a. Protect the officer or others from what is reasonably believed to be a threat of death or great bodily harm; and/or
 - b. To affect an arrest only if:
 - i. The arrest is for a felony;
 - ii. The officer reasonably believes that the force employed creates no substantial risk to innocent persons; and
 - iii. The officer reasonably believes that:
 - [a] The crime for which the arrest is made involved conduct including the use or threatened use of deadly force, or
 - [b] There is a substantial risk that the person to be arrested will cause death or great bodily harm if such person's apprehension is delayed.
2. Where practicable prior to discharging a firearm, officers shall identify themselves as law enforcement officers and state their intent to shoot.

(Note: This policy recognizes exceptional circumstances, such as the deployment of Special Response Team Snipers. Under such exceptional circumstances and at the discretion of the Incident Commander, no announcement will be required.)

Deadly Force Restrictions

1. Officers may use deadly force to destroy an animal that represents a threat to public safety or as a humanitarian measure when the animal is seriously injured when the officer reasonably believes that deadly force can be used without harm to the officer or others.

(Note: Officers shall consider all current Rules, Regulations and Orders regarding the destruction of animals, prior to making a decision to employ deadly force.)

2. Firearms shall not be discharged as a bluff, warning, or signal shot. [1.3.3]

(Note: Unless the officer is in imminent fear of Great Bodily Harm and no other effective means of signaling is available.)

3. Decisions to discharge a firearm at or from a moving vehicle shall be governed by this policy and are prohibited if they present an unreasonable risk to the officer or others.

B. Use of Non-Deadly Force [1.3.4]

1. Where deadly force is not authorized, officers may use only that level of force that is reasonably necessary to bring an incident under control.
2. Officers are authorized to use department-approved, non-deadly force techniques and issued equipment to:
 - a. Protect the officer or others from physical harm;
 - b. Restrain or subdue a resistant individual, while making a lawful arrest or placing a person in protective custody; and/or
 - c. Bring an unlawful situation safely and effectively under control.
3. The mere placing of handcuffs on a person will not be construed to be a use of

physical force. Use of restraining devices is mandatory on all prisoners, suspects, detainees, etc., while in the officer's custody, unless in the officer's judgment unusual circumstances exist which make the use of restraining devices impossible or unnecessary (e.g., very young juvenile, handicapped, injured). **(See Transport of Prisoners Policy and Procedure)**

C. Exigent Circumstances

1. In addition to the circumstances outlined above, officers may occasionally find themselves in unanticipated situations and unable to access their issued equipment. In these exigent circumstances, officers may be required to take extraordinary measures in order to defend themselves, or others.
2. Therefore, officers are authorized to use an ordinary, common item as a defensive weapon (i.e., flashlight, radio, etc.), provided that:
 - a. The use of force is reasonably necessary and justified.
 - b. The common item is used in a manner consistent with this policy and procedure and the officer's training to control the suspect's level of resistance.

D. Aftercare/Medical Attention

1. After any level of force is used, the officer shall immediately evaluate the need for medical attention or treatment for that person upon whom the force was used and arrange for such treatment when: *[1.3.5]*
 - a. That person has a visible injury; or
 - b. In the case of use of pepper spray, immediately after spraying a suspect, officers shall be alert to any indications that the individual needs medical care. This includes, but is not necessarily limited to, breathing difficulties, gagging, profuse sweating and loss of consciousness; or
 - c. **ELECTRICAL WEAPONS:** Suspects subdued by the use of an electrical weapon must receive specific after care. See the department policy on ***Electrical Weapons*** for further information.
 - d. That person complains of injury or discomfort and requests medical attention.

- e. If the subject has been directly struck by a kinetic impact device (i.e., PepperBall, 12 gauge L/L round, 37 mm impact round), the subject will immediately be transported to the hospital for evaluation and treatment.

NOTE: Any person requesting and/or deemed in need of immediate medical attention shall be transported in accordance with the departmental policy on **Transport Of Prisoners** to the appropriate hospital or medical facility. All medical treatment received shall be noted in the officer's report.

2. Injury to Prisoner

- a. The officer shall promptly notify his/her immediate supervisor of the incident.
- b. The officer shall attempt to locate and identify all witnesses, and obtain and document their statements.
- c. The officer shall prepare and submit all required reports. If more than one officer is involved in a use of force incident resulting in an injury, each officer shall complete a report outlining his/her actions and observations in the incident.

3. Patrol Supervisor

- a. If available, the Patrol Supervisor shall immediately respond to the scene of any incident where, as the result of the application of physical force, an officer is injured, or a prisoner has a visible injury, or complains of injury or discomfort and requests medical attention, and
- b. [S]he shall:
 - i. Ensure that officers receive any necessary assistance, including medical treatment, and that any injuries to officers are properly documented;
 - ii. Ensure that the need for medical treatment for the prisoner is properly evaluated and provided;
 - iii. Determine if a detective should respond to the scene and the level of investigative services to be utilized (including photos,

measurements and diagrams). If an injury or complaint of pain exists, supervisors are required to obtain photographs; and

NOTE: A photograph showing no injury may be as important as one which shows injury.

- iv. File a report on the incident and his/her observations with the officer-in-charge of the police station.

E. Documentation

1. In any use of force encounter in which the subject is classified as **Level 3—Resistant (Active)** or higher and any level of force of Compliance Techniques or beyond is utilized, the officer responsible for the Use of Force shall complete a detailed narrative as part of their arrest or incident report. This narrative will include, at a minimum:
 - A description of the subject's actions and the officer's evaluation of the subject's level of resistance
 - The officer's perception of the level of risk associated with the contact
 - A description of the officer's response, to include the technique(s) selected
 - Whether the initial technique(s) were effective and, if not, the follow-up technique(s) selected
 - Any follow-up procedures (decontamination, medical treatment, etc)
 - Any injuries sustained by the subject or officers.

Supervisors will be responsible for reviewing these narratives as part of their case approval process and notifying their Shift Commander and the Training Unit of any narratives that would have previously required a Use of Force Report (Level 3 Contact: Actively Resistant Subject/Compliance Techniques).

2. In any incident in which an officer sustains an injury, the officer shall complete an Injured Employee Report (Administrative Services Form #6), before the conclusion of the shift.
3. In any incident in which a prisoner sustains an injury, the officer involved, or their Patrol Supervisor shall complete a Prisoner Injury Report before the conclusion of the shift.